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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Sections 3(n)
and 332 of the Communications
Act)

Regulatory Treatment of Mobile
Services)

GN Docket No. 93-252

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REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of the United and Central Telephone Companies, Sprint Communications Company L.P., and Sprint Cellular, respectfully replies to Comments filed in response to the May 20, 1994 FNPRM.¹

In the FNPRM, the Commission sought comment on whether it should adopt a cap on the amount of CMRS spectrum that licensees may aggregate in a given geographic area. In its Comments, Sprint acknowledged that the Commission's concern over the need for a spectrum cap was well founded; however, Sprint opined that it was not clear that there should be one spectrum cap applicable to all CMRS. Rather, any spectrum cap adopted should apply only to services that are substantially similar to each other. Accordingly, because Sprint believes that wide-area SMR services are substantially similar to cellular service, Sprint urged the

1. In the Matter of Implementation of Section 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 92-252, Further Notice of Proposed Rule Making, FCC 94-100, released May 20, 1994 ("FNPRM").

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Commission to subject wide-area SMRs to the same PCS eligibility rules as cellular providers.²

Several commenters agree with Sprint that wide-area SMR and cellular service are substantially similar. For instance, American Personal Communications states:

This docket . . . makes the valuable recognition that ESMR carriers will compete effectively with both cellular and PCS, as ESMR proponents have told the Commission and Wall Street for years.³

Also Airtouch, while opposing spectrum caps on principle, agrees with Sprint that ESMR services are substitutable for cellular and upcoming PCS services. Accordingly, ESMR providers should be subject to the same limitations on acquiring PCS spectrum as cellular providers are.⁴

However, several wide-area SMR proponents argue that wide-area SMR service is not "quite" or not "yet" substantially similar to cellular service. American Mobile claims that wide-area SMR and cellular service will be substantially similar in the future if, and only if, the Commission addresses some of the competitive disadvantages under which wide-area SMRS must

2. As used herein, the terms wide-area SMR and Enhanced Specialized Mobile Radio (ESMR) refer to the same SMRs that the Commission calls wide-area SMR. Wide-area SMR providers are SMR licensees that develop wide-area multichannel interconnected systems.

3. Comments of American Personal Communications at p. 2.

4. Comments of Airtouch Communications ("Airtouch") at p. 7.

operate.⁵ Specifically, American Mobile cites wide-area SMRs' lack of geographically-specific authorization and lack of "clear" frequencies. Brown & Schwaninger state that wide-area SMR service will not be similar to cellular until the channel bandwidth authorized to any wide-area SMR licensee is comparable to that assigned to competing cellular operators.⁶

These "differences" between cellular and wide-area SMRs do not justify treating wide-area SMRs differently from cellular providers for purposes of a spectrum cap. These "differences" in large part represent differences in the technology and not differences in the services. The crux of regularity parity is identical regulatory treatment for substantially similar services -- those services that compete with each other and that consumers can substitute for each other. Wide-area SMRs and cellular meet this test.

Perhaps the most telling evidence of the substantial similarity of cellular and wide-area SMR services comes from the

5. Comments of American Mobile Telecommunications Association, Inc. ("American Mobile") at pp. 14-15.

6. Comments of Dennis C. Brown and Robert H. Schwaninger, Jr. d/b/a Brown and Schwaninger at pp. 2-3. See also, Comments of Pittencrieff Communications, Inc., which anticipates that its wide-area SMR operation will be substantially similar to cellular service, but not until the Commission fixes co-channel interference problems, adopts a defined geographic area for wide-area SMR systems, and allows channel "swapping."

Commission's Further Forbearance docket.⁷ In its comments on this docket, Nextel, the "largest provider of ESMR service . . . in the country"⁸ states:

ESMR services, also known as wide-area SMR services, provide customers with mobile telephone, paging and dispatch services all in a single handset along with improved clarity and reception and a host of enhanced features.

Nextel's pioneering work in bringing ESMR service to the public provides the first real competitive choice in ten years to the duopoly cellular carriers⁹

Obviously, wide-area SMRs are substantially similar to cellular service. As Nextel makes clear in the Further Forbearance docket, they are competing with cellular today -- not at some time in the future if, and only if, the Commission takes certain actions -- by offering customers a substitute service.

7. In the Matter of Further Forbearance from Title I Regulation for Certain Types of Commercial Mobile Radio Service Providers, GN Docket No. 94-33, Notice of Proposed Rule Making, FCC 94-101, released May 4, 1994. ("Further Forbearance").

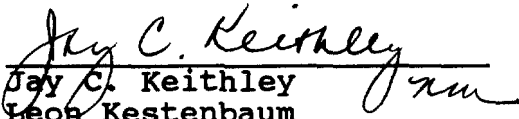
8. Comments of Nextel Communications, Inc. ("Nextel") at p. 4.

9. *Id.* at pp. 4-5. Indeed, the ESMRs' ability to provide cellular-like service in combination with paging and dispatch arguably gives ESMRs a competitive advantage over cellular providers. Accordingly, Sprint shares BellSouth's concern, expressed in this docket, regarding the ability of ESMR licensees to hold cellular licenses, while cellular licensees are prohibited from acquiring ESMR license. *See*, Comments of BellSouth at p. 11, fn. 28.

Accordingly, any spectrum caps placed on cellular providers must also be applied to wide-area SMR licensees.

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CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 11th day of July, 1994, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Reply Comments of Sprint Corporation" in the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252 filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.


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